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| APPLICATION NO.                 | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------|-------------|----------------------|---------------------|------------------|
| 10/602,882                      | 06/25/2003  | Yasuyuki Matsuura    | 2003_0858A          | 2263             |
| 52349                           | 7590        | 10/08/2008           | EXAMINER            |                  |
| WENDEROTH, LIND & PONACK L.L.P. |             |                      | TEKLE, DANIEL T     |                  |
| 2033 K. STREET, NW              |             |                      |                     |                  |
| SUITE 800                       |             |                      | ART UNIT            | PAPER NUMBER     |
| WASHINGTON, DC 20006            |             |                      | 2621                |                  |
|                                 |             |                      |                     |                  |
|                                 |             |                      | MAIL DATE           | DELIVERY MODE    |
|                                 |             |                      | 10/08/2008          | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/602,882             | MATSUURA ET AL.     |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | DANIEL TEKLE           | 2621                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 June 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-10 and 12-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .                                                          | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Response to Argument***

Applicant's arguments filed August 11, 2008 have been fully considered but they are not persuasive.

Applicant argument regarding claim 1 and 10 on page 11 to 12 of the remark, see the new cited column and line number of Orr et al. below.

Applicant's arguments with respect to claim 1, 3-10 and 12-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1, 3-10 and 12-18 rejected under 35 U.S.C. 103 (a) as being unpatentable over Orr (US 6760535) further in views of Duruoz et al. (US 6,658,056).

**Regarding Claim 1:** Orr and Duruoz et al. discloses a recording apparatus comprising:  
a continuous recording unit operable to, with use of recording medium as a ringer buffer, realized continuous recording of broadcast content (column 9 lines 45-59 of Duruoz et al.); a receiving unit operable to receive a specification on a period of time within the broadcast content, wherein receiving unit displays a menu in which the current time is associated with a time N hours ago prior to the current time, and a retention of a broadcast content after the end of a broadcasting is based on the

received specification on the period of time via the menu **(column 6 lines 33-48 of Orr)**; and a setting unit operable to set a protective attribute onto a part of the recording medium corresponding to the period of time, wherein the broadcast content is made up of a plurality of video units, the continuous recording obtains the broadcast content broadcasted from N hours ago to the current time onto the recording medium by, each time a broadcast is received and a new video unit is generated from the received broadcast, overwriting the ringer buffer with the generated video unit, **(column 2 lines 38-46 and column 5 lines 4-21 of Orr)**, and the part of the recording medium having the protective attribute is protected against the overwriting performed by the continuous recording unit **(column 5 lines 13-21 of Orr)**; and a pointer operable to indicate a location of writing in the recording medium, the continuous recording unit being operable to perform the overwriting by to the ringer buffer **(column 9 lines 45-59 of Duruoz et al.)** by irrespective of whether the ring buffer has been viewed by a user or not **(column 5 lines 4-12 Of Orr)** (i) writing the new video unit to the location of writing **(column 4 lines 58 to column 5 line 3 of Orr)**; indicated by the pointer, and (ii) subsequently adding a size of the new video unit to the pointer, wherein said recording apparatus is operable to protect against overwriting by adding an offset to the pointer when the pointer reaches a vicinity of the part having the protective attribute such that the pointer skips the part having the protective attribute **(column 6 lines 49-59 and column 7 lines 57-66 Of Orr)**.

Orr invention did not show the use of buffer ringer, however Duruoz et al. discloses FiFo buffer for overwrite audio video data **(column 9 lines 45-59)**.

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine ringer buffer of Duruoz et al. into Orr invention in order to record continuously an audio video data.

**Regarding Claim 3:** Orr discloses a recording apparatus of claim 1, wherein the part of the recording medium having the protective attribute stores therein two or more video units, which represent one of a plurality of broadcast programs that have been broadcasted between N hours ago and the current time, the recording apparatus further comprises a display unit operable to display a schedule table of the plurality of broadcast programs (**column 2 lines 53-63 and column 3 lines 42-63**), and the period of time is period during which the one of the plurality of broadcast programs is being broadcasted (**column 3 lines 14-22**).

**Regarding Claim 4:** Orr discloses a recording apparatus of claim 1, wherein the specification is made by an operation of inputting\_starting time and an ending time of the period (**column 6 lines 49-59 and column 7 lines 3-7**).

**Regarding Claim 5:** Orr discloses a recording apparatus of claim 1, wherein the specification is made by an operation of inputting a\_starting time, and the part of the recording medium having the protective attribute stores therein two or more video units which correspond to either (a) a predetermined length of time beginning at the starting time or (b) a predetermined length of time into past from the starting time (**column 7 lines 3-7**).

**Regarding Claim 6:** Orr discloses a recording apparatus of claim 1, further comprising: a loading unit operable to load a portable recording medium (**column 3 lines 4-13**); and

a copying unit operable to copy, onto the portable recording medium, the part of the recording medium having the protective attribute (**column 4 lines 8-18**).

**Regarding Claim 7:** Orr discloses a recording apparatus of claim 6, wherein the part of the recording medium keeps the protective attribute there on until the part finishes being copied onto the portable recording medium, at which time the protective attribute gets cancelled (**column 4 lines 8-18**).

**Regarding Claim 8:** Orr discloses a recording apparatus of claim 1, wherein the part of the recording medium having the protective attribute stores therein two or more video units, which represent one of a plurality of broadcast programs that have been broadcasted between N hours ago and the current time, the recording apparatus further comprises a reproducing unit operable to reproduce each of the video units recorded on the recording medium, and the setting unit, when each of the plurality of broadcast programs finishes being reproduced, inquires of the user whether or not a period corresponding to each broadcast program should be retained, and the specification is an affirmative reply in response to the inquiry (**column 7 lines 57 to column 8 lines 9**).

**Regarding Claim 9:** Orr discloses a recording apparatus of claim 1, wherein the part of the recording medium having the protective attribute stores therein two or more video units, which represent one of a plurality of broadcast programs that have been broadcasted between N hours ago and the current time, the recording apparatus further comprises a reproducing unit operable to reproduce each of the video units recorded on the recording medium, and the specification indicates that a period corresponding to a

broadcast program currently being reproduced should be retained (**column 7 lines 57 to column 8 lines 9**).

**Regarding Claims 10 and 12-18:** Claims 10 and 12-18 are rejected for the same subject matter as claims 1 and 3-9 respectively.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel Tekle/  
Examiner, Art Unit 2621

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621